IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3821 of 2007()

ST.1437/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,PATHANAMTHITTA

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PETITIONER: ACCUSED

K.K.AJAYAN, AGED 29 YEARS,
S/O. KUNJUCHERUKKAN, KALLUPARAMBIL HOUSE,
VADASSERIKKARA, PATHANAMTHITTA.

BY ADV. SRI.R.VINOD

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3821 of 2007

Dated this the 19th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has already been taken. The petitioner has not entered personally before the learned Magistrate so far. He had entered appearance through counsel. Subsequently he started not appearing. Coercive processes have been issued against the petitioner. The petitioner finds such coercive processes chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-